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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,223	05/02/2001	Tony E. Piotrowski	US 010215	5958

24737 7590 07/01/2005

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EXAMINER

LAYE, JADE O

ART UNIT PAPER NUMBER

2617

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,223

Applicant(s)

PIOTROWSKI ET AL.

Examiner

Jade O. Laye

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/6/05 have been fully considered but are considered unpersuasive. Accordingly, **THIS ACTION IS MADE FINAL.**

Applicant argues *Abecassis* does not disclose the limitations of claim 1. More specifically, Applicant argues “[*Abecassis*] does not include receiving a video signal including at least one rating code representing a program classification for a segment of the video signal and at least one alt-location code...”. (Applicant’s Response, Pg. 11). However, the Examiner does not agree. *Abecassis* does, in fact, teach each limitation of claim 1 and the Examiner will outline his reasoning below.

Abecassis does teach the use of rating codes, which represent each segment’s program classification. In Col. 8, Ln. 46-60, *Abecassis* clearly discloses a video segment descriptive structure incorporating the MPAA’s movie rating system (i.e., rating codes). In addition, Figure 2D clearly shows a plurality of video segments, each assigned a descriptive rating code. Accordingly, *Abecassis* does teach the use of rating codes, which represent each segments program classification.

Applicant goes on to argue “*Abecassis* does not perform the claimed step of ‘comparing the rating code [of the received video signal] with a predetermined program code.’” (Applicant’s Response, Pg. 11). However, the Examiner does not agree.

Abecassis does teach a comparison of the received video segment’s rating codes to predetermined program codes specified by the user. In Col. 6, Ln. 30-40, *Abecassis* teaches the

system analyzes the incoming signal and only transmits those segments which are consistent with the viewer's preestablished video content preferences. This clearly discloses a comparison. Accordingly, this limitation is met.

Abecassis does teach the incoming video signals contain alt-location codes. Since Applicant provided no clear definition of "alt-location code" within the Specification, the Examiner interprets the term as broadly as reasonably possible to denote *any code used to locate an alternative video segment*. Following this interpretation, Col. 10, Ln. 14-21 & Col. 13, Ln. 60-Col. 14, Ln. 23 of *Abecassis* details the Examiner's basis for this argument. The system contains a "control programs" module, which uses a segment map to coordinate the insertion of program segments. The segment map is extracted from the video segments themselves. Giving a broad interpretation to "alt-location code", the Examiner interprets *Abecassis*'s segment map to read upon this limitation. Since the segment map is encoded onto the video signal itself and subsequently used to coordinate alternative segment selection, said segment map essentially contains said alt-location code. Moreover, in the alternative, this limitation would be inherent in a system as disclosed by *Abecassis*. The incoming signal must have some form of encoded data in order to signify (to the control programs module) which alternative segments could be inserted and where such segments could be inserted. If not, the system would arbitrarily insert segments and the program (i.e., story line) would be rendered incomprehensible. Accordingly, *Abecassis* does teach the use of alt-location codes.

In light of the before-mentioned disclosure of *Abecassis*, Applicant's argument in regard to claim 3 is moot. However, for clarification, the Examiner will provide a more detailed explanation of his previous non-final rejection.

Applicant argues “there is nothing in the received signal that identifies an alternate content or the alternate input...”. (Applicant’s Response, Pg. 12). The Examiner disagrees. In the previous action, *Abecassis* was relied upon to teach the use of the alt-location code (as discussed above). But, *Abecassis* fails to *specifically* teach identifying a source for the alternative programming. However, *Vogel* does disclose the use of a microprocessor, which commands a relay to switch to an alternative video input. (Fig. 1 & Col. 4, Ln. 43-58). Figure 1 shows an exemplary embodiment in which only one alternative source is provided (although plural alternative sources can be used. (Col. 6, Ln. 39-45)). When the microprocessor signals the relay to switch to “alternative video input 4”, said microprocessor is “identifying a source for obtaining the alternative segment” (i.e., alternative video input 4), as recited in claim 3. Therefore, the combined system of *Abecassis* and *Vogel* does disclose all limitations of claim 3.

2. In view of Applicant’s amended Specification and Claims, the objections applied in the previous non-final action have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-8, 12, 14, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by *Abecassis* (US #5,664,046).

Applicant's claim 1 recites a method of providing alternative information for a video program comprising the steps of:

- a. receiving a video signal containing at least one rating code and one alt-location code
- b. comparing the rating code with the predetermined program code
- c. determining whether an alternative segment is available based upon the alt-location code
- d. and, substituting the alternative segment for the original segment based upon the comparison.

As to sub-element "a", Abecassis discloses the use of a video image/program (Col. 3, Ln. 59-61), which contains variable program ratings (Col. 5, Ln. 41-54) and frame identifiers, or i.e., alt-location codes. (Col. 6, Ln. 14-24).

As to sub-element "b", Abecassis discloses a method by which a random access device analyzes the viewer's predetermined content preferences in relation to the program's segment map (which contains rating and frame location codes). (Col. 6, Ln. 30-40).

As to sub-element "c", Abecassis discloses a method in which the program segment map contains a segment definition that is linked to any available alternative segment. (Col. 9, Ln. 32-48). This link allows the system to determine if there is an alternative segment provided which corresponds to the frame location contained in the segment map.

As to sub-element "d", Abecassis discloses a method by which program content that does not meet the user's preference will be excluded and any available alternative programs meeting the users preferences will be seamlessly transmitted. (Col. 4, Ln 5-15 & Col. 6, Ln. 30-40).

Accordingly, each and every limitation of applicant's claim 1 has been anticipated by Abecassis. Also, claims 8 and 12 are apparatus and means-function-claims, respectively, and are analyzed and rejected as previously discussed.

As to claim 2, Abecassis discloses the use of a video program, which can be any video image regardless of source, motion, or technology implemented. (Col. 3, Ln. 59-64). Accordingly, each and every limitation of applicant's claim 2 has been anticipated by Abecassis.

As to claim 4, Abecassis discloses a method by which the encoded program segments vary according to their content descriptive structure (i.e., rating codes and frame identifiers). (Col. 6, Ln. 13-24). Since this system analyzes segments of an encoded signal, it is inherent that the system must periodically receive these encoded segments in order to analyze each segment individually. Accordingly, each and every limitation of applicant's claim 4 has been anticipated by Abecassis.

Claim 14 is a means-plus-function claim corresponding to method claim 4. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 5, Abecassis discloses a method by which the user can pre-establish video preferences (Col. 6, Ln. 25-30). Also, the user is allowed to store the content preferences. (Col. 5, Ln. 13-15). Accordingly, each and every limitation of applicant's claim 5 has been anticipated by Abecassis.

Claim 15 is a means-plus-function claim corresponding to method claim 5. Accordingly, it is analyzed and rejected as previously discussed.

As to claim 6, Abecassis discloses a method by which a random access device reads (i.e. extracts) the encoded video segments containing the rating and frame identification information.

(Col. 6, Ln. 13-24 & Ln. 30-40). Accordingly, each and every limitation of applicant's claim 6 has been anticipated by Abecassis.

As to claim 7, Abecassis discloses a method in which the alternative segment's rating code is compared to the user's rating preference and the substitution is performed based upon this comparison. (Col. 6, Ln. 25-40). Accordingly, each and every limitation of applicant's claim 7 is anticipated by Abecassis.

Claim 17 is a means-plus-function claim corresponding to the method claim 7. Accordingly, it is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Vogel (US #4,930,160).

Applicant's claim 3 recites the method of claim 2, wherein the alt-location code also identifies a source for obtaining the alternative segment. As discussed above under paragraph 4, Abecassis contains all limitations of applicant's claim 2, but fails to disclose whether the frame identifiers (i.e., alt-location codes) can specify a source for obtaining the alternative segments. However, within the same field of endeavor, Vogel discloses a method by which the alternative segments can originate from a remote source, for example as another television broadcast, or locally, for example as from a video or tape player. (referenced in Abecassis Col. 2, Ln. 51-54). Vogel further discloses that a code extractor scans the video signal, generates a corresponding table, and sends the table to a microcontroller, which then causes the signals to be switched to the alternative sources. (Vogel Col. 4, Ln. 43-63). Accordingly, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine the method of Abecassis with the alternative source teaching of Vogel in order to provide facilities for displaying a greater variety of alternative segments.

Claim 13 is a means-plus-function claim, which corresponds to the method claim 3. Accordingly, it is analyzed and rejected as previously discussed.

5. Claims 9, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Kwoh. (US #6,226,793).

Applicant's claim 9 recites the system of claim 8, wherein the data capture module forms part of a closed captioning system. As discussed above, Abecassis contains all the limitations of applicant's claim 8 and further disclosed that his system could be used in conjunction with any video image, regardless of source, motion, or technology implemented. (Col. 3, Ln. 59-64). But, Abecassis failed to teach whether his invention could be used in conjunction with a closed captioning system. However, within the same field of endeavor, Kwoh teaches that it is well known in the art that closed captioning data associated with a television program is transmitted as encoded composite data in the vertical blanking interval line 21 of a standard NTSC signal. (Col. 13, Ln. 2-6 & Fig. 21). Since Abecassis's video image teaching can encompass a standard television signal, i.e. NTSC signal, it can form part of a closed captioning system. Accordingly, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine the method of Abecassis with the closed captioning teaching of Kwoh in order to provide for an alternative system and method which utilizes the Abecassis invention.

Claim 16 is a means-plus-function claim corresponding to apparatus claim 9. Accordingly, it is analyzed and rejected as previously discussed.

Applicant's claim 10 recites the system of claim 9, wherein the video signal is a television program containing a rating and alt-location code, which is extracted from Line 21 of

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the vertical blanking interval (VBI). As discussed above, Abecassis contains all limitations of applicant's claim 9, but fails to teach that the rating and alt-location codes can be extracted from vertical blanking interval line 21. However, within the same field of endeavor, Kwoh teaches that closed captioning data and extended data services (EDS) data containing rating packets and start/end data can be transmitted on VBI line 21. (Col. 14, Ln. 21-24 & Ln. 66-67; Col. 15, Ln. 1-2; Fig. 21). Accordingly, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine the system of Abecassis with the VBI teaching of Kwoh in order to provide a more efficient way of transmitting program segment information.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Chard. (US #4,605,964).

Applicant's claim 11 recites the system of claim 8, where the data capture module forms part of a teletext system. As discussed above, Abecassis contains all limitations of applicant's claim 8, but fails to teach whether the system forms part of a teletext system. However, within the same field of endeavor, Chard discloses a decoder, which forms part of a teletext system. (Col. 2, Ln. 46-63). Therefore, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine the system of Abecassis with the teletext decoding capability of Chard in order to provide a simpler, well-known method of encoding.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner's FR 
June 23, 2005.


NGOC-YEN VU
PRIMARY EXAMINER